

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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STEVEN M. CLARKE, et al.,

Plaintiffs,

22-cv-1917 (PKC)

-against-

ORDER

TRIGO U.S. INC.,

Defendant.

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CASTEL, U.S.D.J.

Rule 43(a), Fed R Civ. P., generally requires that testimony of a witness be taken in open court. It further provides that “[f]or good cause in compelling circumstances and with appropriate safeguards, the court may permit testimony in open court by contemporaneous transmission from a different location.” The information provided by declaration concerning Ken Watson’s medical condition satisfies the good cause and compelling circumstances requirement.

The following safeguards, conditions and requirements are imposed:

1. Defendant is responsible for all costs and arrangements for the video transmission and shall coordinate with this Court’s staff, including the audio-visual department, and comply with staff’s directives and requirements.
2. All persons present in the room during testimony of the witness shall be identified on the record.

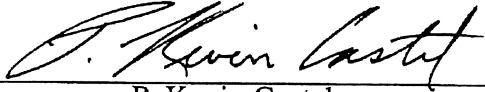
3. The room in which the transmission takes place shall be free from distracting sounds. The background behind the witness shall be plain and without distracting images.

4. When directed by the Court in the course of the video transmission, the witness shall execute a written declaration as follows: "I declare under penalty of perjury that the testimony given to this Court is true and correct. Executed on \_\_\_\_\_. " A copy of the executed declaration shall be provided to the Court forthwith following the completion of the testimony. Defendant's counsel shall advise the witness of this requirement before the witness testifies.

5. If opposing counsel wishes to cross-examine the witness on any document, counsel shall provide a sealed envelope or envelopes containing the document or documents to defendant's counsel at least four (4) days before the hearing. Defendant's counsel shall promptly furnish the sealed envelope(s) to be opened as directed by plaintiff's counsel in the course of the examination of the witness.

Letter motion (ECF 109 ) is GRANTED.

SO ORDERED.

  
P. Kevin Castel  
United States District Judge

Dated: New York, New York  
October 30, 2024